



SENATE BILL 349: Increase Housing Opportunities.

2021-2022 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 5, 2021
Introduced by:	Sens. Edwards, Newton, Fitch	Prepared by:	Nicholas Giddings
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *Senate Bill 349 would make various changes to the zoning statutes.*

[As introduced, this bill was identical to H401, as introduced by Reps. D. Hall, Moffitt, Brody, Richardson, which is currently in House State Government.]

CURRENT LAW: Chapter 160D of the General Statutes contains the processes and procedures local governments utilize for development approvals under their planning and development regulations. Article 7 of Chapter 160D grants local governments the power to create zoning regulations (G.S. 160D-702) and zoning districts (G.S. 160D-703).

BILL ANALYSIS: Senate Bill 349 would do the following:

Part I.

- Require local governments to allow all types of middle housing in areas zoned for residential use so long as the area is served by a public water or sewer system. Middle housing would include residential duplexes, triplexes, quadplexes, and townhouses.
- Authorize development of one NC Residential Code-compliant accessory dwelling unit per single-family dwelling. Accessory dwelling unit would be an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.
- Provide that accessory dwelling units would not be subject to owner-occupancy, minimum parking, or conditional use zoning requirements.
- Exempts accessory dwelling units from the North Carolina Vacation Rental Act.

Part II.

- Provide that substantial compliance with the provision of information required by ordinance or regulation is sufficient to accept and process a development permit application.
- Provide that for multi-permit projects, the permit choice rule would not apply to additional development permit applications filed 18 months after the latter of (1) cessation of work for the uncompleted development project or (2) the date of issuance of the immediately preceding local development permit.
- Remove local government authority to downzone property that has access to public water or sewer unless public health, safety, or welfare is substantially affected.

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- Prohibit local government ordinances from banning a use of land except for industrial uses, nuisance per se, or if land use poses serious threat to public health, safety, or welfare.
- Provide that local governments may still regulate adult establishments.
- Provide that a local government may not (1) downzone property to evade voluntary consent of landowners, (2) allow particular land use only through conditional zoning, or (3) require conditional zoning upon exceeding a certain square footage or number of dwelling units.
- Provide that attorney's fees must be awarded to a party who successfully challenges certain local government actions.
- If a court invalidates certain local government regulations, a permit applicant may choose which zoning designation will apply to the permit and use of the building, structure, or land indicated on the permit application.
- Provide that if conflicts in development regulations exist, local government ordinance must not alter the principle of free use of land.
- Provide that local governments may settle litigation related to enforcement of development regulations.
- Require motions to intervene in appeals of quasi-judicial proceedings to be filed before final judgment is rendered.
- Provide that approval by a Department of Transportation traffic impact analysis is conclusive evidence that traffic related to a developmental project will not pose a danger to public safety.
- Render certain quasi-judicial appeals moot in the following circumstances:
 - Appeals of special use permits if work substantially commenced prior to the issuance of an injunction.
 - Appeals related to a special use permit issued after a court remanded the proceeding and no injunction was in place to prevent permit issuance.
- Require a bond be posted for certain parties who move for injunctive relief.

Part III.

- Provide that beginning October 1, 2021, every local government engaged in development permitting review must submit a semiannual report to the Joint Legislative Committee on Local Government and the Fiscal Research Division containing the following:
 - The number of developmental permit applications received.
 - The number of developmental permit application denied and the reason for denial.
 - The number of downzoning ordinances enacted.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law. Sections 2.1, 2.5, and 2.6 of this act would be intended to clarify and restate the intent of existing law and apply to permit applications filed and appeals taken before, on, and after the effective date.